

Mark J. Geragos
California State Bar #108325
GERAGOS & GERAGOS
644 S. Figueroa Street
Los Angeles, CA 90017
Telephone: (213) 625-3900
Facsimile: (213) 625-1600

Jon D. Williams (8318)
9 Exchange Place, Suite 600
Salt Lake City, UT 84111
Telephone: (801) 746-1460
Facsimile: (801) 998-8077

Attorneys for Lev Aslan Dermen

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

LEV ASLAN DERMEN,

**DEFENDANT LEV DERMEN'S
RESPONSE TO GOVERNMENT'S
MOTIONS TO SEAL DEFENDANTS
MOTION TO COMPEL DISCOVERY
AND DEFENDANTS MOTION TO
CONTINUE [ECF 531 & 527]**

Case No.: 2:18-cr-00365-JNP-BCW

Defendant Lev Aslan Dermen ("Mr. Dermen"), through counsel, hereby submits this response to the Government's Motion to Seal Defendant's Motion to Compel Discovery (Dkt. 534) and Government's Motion to Seal Defendant's Motion to Continue (Dkt. 530).

On August 19, 2019, the government filed a Motion to Seal Government's *Third Supplemental James Proffer* and Exhibits, (Dkt. 496). The government claimed that the

“pleading and exhibits include grand jury material, financial information, and information about the criminal conduct of uncharged persons,” taking the position that sealing was necessary to protect the privacy interests of others, including third parties, particularly with regard to financial information.” (Dkt. 496). The government’s motion was granted on August 21, 2019. (Dkt. 500). On August 28, 2019, the defendant filed a Motion to Compel Discovery regarding the government’s interference with the defendant’s Rule 15 deposition of Sezgin Baran Korkmaz. The defendant on the same day also filed a Motion to Continue the Trial Date and Request from Relief from the Amended Trial Order. Neither motion made reference to information that would compromise financial information or any other personal identifying information of a sensitive nature. The motion to Compel details the events leading up to Mr. Korkmaz’s scheduled Rule 15 deposition and the government’s conduct interfering with the deposition, including its sudden attempt to deem Mr. Korkmaz an unindicted co-conspirator for the sole purpose of introducing his statements pursuant to FRE 801(d)(2)(e).

Immediately after the defendant filed its Motions, the government filed emergency requests seal both of the defendant’s Motions, stating that they “extensively describe substantive content from the United States’ Third *James Proffer*” and that it should be sealed for the reasons stated in the August 19, 2019 Motion to Seal the Government’s James Proffer and Exhibits.

However, the defendant’s motions make no reference to sensitive data. Defendant is at a loss as to what financial information or sensitive data has been revealed within the motions, or why the defendant’s right to a public trial is somehow outweighed by the government’s unfounded interests in protecting the privacy interests of uncharged individuals who the government now alleges are participants in new “lawful” and “unlawful” conspiracies contrived

by the prosecution team. The government has yet again made baseless allegations against uncharged individuals for the sole purpose of circumventing the rules of evidence, after guaranteeing on numerous occasions that these individuals were not targets or subjects of the this investigation. This pattern of providing false assurances to witnesses in this case in exchange for their cooperation with the government, is the real motive behind the government's motions seeking to seal the contents of the government's *Third Supplemental James Proffer* in the first place. The government has yet to explain any other legitimate basis for the initial sealing. The government's own sealed *Proffer* does not reveal sensitive financial information.

The government fails to cite to any statute or legal theory that justifies sealing the defendant's motions in this instance. Accordingly, the defense respectfully requests that the Court unseal Mr. Dermen's *Motion to Continue* and *Motion to Compel Discovery*.

Dated: August 28, 2019.

/s/ Mark J. Geragos
MARK J. GERAGOS
GERAGOS & GERAGOS
644 Figueroa Street
Los Angeles, CA 90017
Telephone: (213) 625-3900
Email: mark@geragos.com

JON D. WILLIAMS (UT #8318)
9 Exchange Place, Suite 600
Salt Lake City, Utah 84111
Telephone: (801) 746-1460
Email: jwilliam@lawyer.com

Attorneys for Lev Aslan Dermen

CERTIFICATE OF SERVICE

I hereby certify that I filed a true and correct copy of the foregoing, on the case styled *United States of America v. Lev Aslan Dermen*, this 29th day of August, 2019, with the Clerk of the Court using CM/ECF, which sent notification of the filing to all parties registered to receive such notice in the case.

/s/ Mark J. Geragos